

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

MARILYN WALTON,	§	No.
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
CARDWORKS SERVICING, LLC,	§	
	§	
Defendant.	§	
	§	

PLAINTIFF’S COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, MARILYN WALTON (Plaintiff), through her attorneys, KROHN & MOSS, LTD., alleges the following against Defendant, CARDWORKS SERVICING, LLC (Defendant):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).
2. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”
4. Defendant conducts business in the state of Texas, and therefore, personal jurisdiction is established.
5. Venue is proper pursuant to *28 U.S.C. 1391(b)(2)*.

PARTIES

6. Plaintiff is a natural person residing in the City of Dallas, Dallas County, Texas.
7. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)*, and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by *15 U.S.C. 1692a(5)*.
8. Defendant is an alleged debt collector as that term is defined by *15 U.S.C. 1692a(6)*, and sought to collect a consumer debt from Plaintiff.
9. Defendant is a collection agency with a business office in Pittsburgh, Pennsylvania.
10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

11. Defendant is attempting to collect a consumer debt from Plaintiff.
12. Plaintiff's debt owed arises from transactions for personal, family, and household purposes.
13. Within the last year, Defendant has been calling Plaintiff on Plaintiff's home telephone (214-371-0836) in an attempt to collect a debt.
14. Defendant calls Plaintiff from 877-487-5583, a telephone number belonging to Defendant.
15. Defendant called Plaintiff on or about May 4, 2011.
16. On May 6, 2011, Plaintiff faxed Defendant a cease and desist letter (Plaintiff's cease and desist letter and fax confirmation are attached as Exhibit A).
17. Despite receiving Plaintiff's letter (Exhibit A), Defendant communicated with Plaintiff after May 6, 2011, in an attempt to collect a debt.
18. On May 7, 2011, Defendant's collector, Mary Hughes, called Plaintiff on her home telephone and spoke with Plaintiff in an attempt to collect a debt.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

19. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692c(c) of the FDCPA by communicating with Plaintiff after Defendant received Plaintiff's cease and desist letter.

WHEREFORE, Plaintiff, MARILYN WALTON, respectfully requests judgment be entered against Defendant, CARDWORKS SERVICING, LLC, for the following:

20. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
21. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
22. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, MARILYN WALTON, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,
KROHN & MOSS, LTD.

Dated: May 25, 2011

By: /s/ Michael S. Agruss
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Attorney for Plaintiff

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF TEXAS

Plaintiff, MARILYN WALTON, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, MARILYN WALTON, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

May 16, 2011
Date

Marilyn L. Walton
MARILYN WALTON

EXHIBIT A

[REDACTED]

From: [REDACTED]
Sent: Friday, May 06, 2011 11:12 AM
To: [REDACTED] Fax
Subject: 412-434-7359
Via fax: 412-434-7359

Cardworks Servicing
225 W Station Square Drive
Pittsburgh, PA 15219

Re: Marilyn Walton

To Whom It May Concern:

Please stop communicating with me regarding this debt.

Thanks,

Marilyn Walton
5640 Trailwood Drive
Dallas, TX 75241-1831

[REDACTED]
From: Fax.com Email to Fax [reports@fax.com]
Sent: Friday, May 06, 2011 11:13 AM
To: [REDACTED]
Subject: Fax Confirmation -OK

Your fax to an unknown recipient at fax number 4124347359 succeeded

FSID: 41442402

Attempts made: 1
Pages delivered: 1
Minutes spent delivering this fax : 0 4
The baud rate was: 26400

The following are the attempts made and the result that occurred:
05/06/2011 - 11:12:23 - 0(Success)

Documents being delivered:
1 HTML Message Body